

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

IN RE:

KAINOS COMMUNITY CHURCH, INC.,

Debtor

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§

**CASE NO. 12-38296
(Chapter 11)**

**FOUNDATION CAPITAL RESOURCES REJECTION OF PLAN AND
OBJECTION TO CONFIRMATION**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Foundation Capital Resources, Inc. ("FCR") files this its rejection of the Debtor's First Amended Chapter 11 Plan of Reorganization dated June 27, 2013, (the "Plan") and Objection to Confirmation of the Plan and as grounds would show the Court as follows:

Objection Deadline

1. The deadline to file objections to the Plan is September 3, 2013, and this Objection has been filed timely.

FCR's Allowed Secured Claim

2. On November 5, 2012, (the "Petition Date") the Debtor filed a Petition for Relief under Chapter 11 of the Bankruptcy Code, thereby initiating the captioned bankruptcy case.

3. FCR is a secured creditor of the Debtor in the amount of \$648,036.13 (the "Indebtedness") as of the date of the Debtor's filing as reflected in FCR's proof of claim on file in this case, by virtue of a loan FCR made to the Debtor evidenced by The CCEF Commercial Variable Interest Rate Promissory Note dated October 17, 2002, in the original principal amount of \$750,000.00 (the "Note"). In addition, interest, costs, and attorney's fees continue to accrue.

4. To secure the Indebtedness under the Note, the Debtor executed a Deed of Trust, dated October 17, 2002, which was recorded in the official public records of Harris County, Texas under Harris County Clerk's file number W162877, (the "Deed of Trust") in which the Debtor granted FCR a lien on the following real property and improvements (the "Collateral"):

- (a) All that certain tract or parcel of ground containing 1.4930 acres of land situated in the County of Harris, State of Texas, out of the W.C.R.R. Company survey, Abstract No. 900 and being more particularly described in **Exhibit A** attached to the Deed of Trust, to which reference is hereby made for all purposes.

Debtor's Treatment of FCR's Class 2 Claim

5. FCR is the holder of the Class 2 Claim under the Plan. The Debtor has provided for FCR's claim only in the amount owed as of the petition date. The Debtor proposes to pay the Class 2 Claim in 35 monthly installments of \$5,400.00 each and a final balloon payment of the unpaid balance in month 36. The Plan does not allow for or propose to pay FCR post-petition accrued interest or attorney's fees.

No Provision for Post-petition Interest and Attorney Fees

6. Under the Note, interest accrues at 8.75% per annum. Accrued interest to September 1, 2013, is \$44,588.56 for the 300 days since the Debtor's filing of the petition. Interest continues to accrue thereafter at the rate of \$148.63 per day. In addition, FCR has incurred post-petition attorney's fees in excess of \$10,260.00. The balance owing to FCR with post-petition accrued interest and attorney's fees is \$702,884.72.

7. The value of FCR's Collateral is at least \$750,000.00 according to the Debtor's schedule of the value of the Collateral, and FCR is an over secured creditor as of the Petition Date. As an over secured creditor, FCR is entitled to post-petition interest and its reasonable fees, costs

and charges from the petition date through the date of confirmation. To the extent the Plan does not propose to pay FCR's reasonable attorneys' fees, costs and charges post-petition, FCR objects to this treatment as FCR is entitled to recover these under 11 U.S.C. § 506(b).

Objection to Plan

8. FCR objects to the Debtor's proposed Plan because it fails to allow FCR its full secured claim with post-petition interest, attorney's fees and expenses.

THEREFORE, Foundation Capital Resources, Inc. requests that the Court sustain its objection to the Debtor's Plan and deny confirmation of the Plan. Foundation Capital Resources, Inc. requests such other and further relief to which it may be justly entitled.

Respectfully submitted,

CHERNOSKY, SMITH, RESSLING & SMITH, PLLC



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Attorneys for Foundation Capital Resources, Inc.

Certificate of Service

A copy of this Objection to Confirmation was served on the persons shown on Service List below at the addresses reflected thereon on August 21, 2013, by electronic court filing or prepaid United States first class mail.



Michael J. Smith

SERVICE LIST

DEBTOR:

Kainos Community Church, Inc.
P.O. Box 5506
Katy, TX 77449
Via First Class U.S. Mail

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Via Electronic Notice

CHAPTER 11 TRUSTEE:

Ms. Nancy Lynne Holley
U.S. Trustee
515 Rusk Street, Suite 3516
Houston, Texas 77002
Telephone: (713) 718-4650
Email: nancy.holley@usdoj.gov
Via Electronic Notice

U.S. TRUSTEE:

U.S. Trustee
Bob Casey Federal Building
515 Rusk, 3rd Floor, Suite 3516
Houston, Texas 77002
Via Electronic Notice

TWENTY (20) LARGEST UNSECURED CREDITORS SCHEDULED BY DEBTOR, PARTIES IN INTEREST AND THOSE REQUESTING NOTICE:

ACS Technologies
P.O. Box 202010
Florence, SC 29502-2010

Met Printing
5151 Mitchellodale, Suite A3
Houston, TX 77092-7220

AT&T
P.O. Box 105414
Atlanta, GA 30348

Tyco Intergrated Security for ADT
P.O. Box 650485
Dallas, TX 75265-0485

Addicks Fire & Safety
1800 Sherwood Forest, Suite B-1
Houston, TX 77043-3019

Allen Maxwell & Silver
190 Sylvan Avenue
Englewood Cliffs, NJ 07632

Concorde Air Systems
15702 Mesa Gardens Drive
Houston, TX 77095-2643

First Nonprofit Insurance Agency
1 South Wacker Drive, Suite 2380
Chicago, IL 60606-7215

Internal Revenue Service
P.O. Box 7346
Philadelphia, PA 19101-7346

Lifeway Christian Resources
P.O. Box 842122
Dallas, TX 75284-2122